

SUPPORTING DOCUMENT 6

AMEC Earth and Environmental Hearing Documents

Opposing the Assessment of Civil Liability

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November 19, 2002

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California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Attention: Julie Chan
Barry S. Pulver

Dear Sir and Madam:

Re: Rupture of Chevron pipeline / Belt Street
Your file reference: AST:40-Belt Street Pipeline:bsp

Introduction

In response to the Regional Water Quality Control Board's ("Board") "Complaint No. R9-2002-331 For Administration Civil Liability, Noncompliance with California Water Code Section 13267" AMEC submits this response in conformance with Title 23, California Code of Regulations section 648.2 and California Water Code sections, 183, 13263 and 13378. As the Board has stated that the entire file related to this matter including Board files, exhibits and agenda material will form a part of the record, AMEC requests that attention be drawn to its submittals of September 26, 2001, January 23, 2002 and all correspondence to and from the Board and AMEC relative to this matter. The issue with respect to the submission of the documents requested by the Board in Order No. R9-2002-0083, dated November 13, 2001, and affirmed in an order dated April 3, 2002 is related to the acceptance by the City of San Diego to prepare such documents. The Board explicitly recognized that there was no need for duplication of submission and acknowledged that AMEC would not be submitting documentation. The first notice to AMEC that such documentation had not be submitted to augment the submittal dated December 17, 2001 by Harding ESE was the Notice of Complaint dated October 23, 2002. AMEC submits that it was denied procedural due process in that the Board was aware of the delay in submittal by the City of San Diego. The Board had discussions with the City or its representatives relative to the delay, but did not advise AMEC of any issues related to the delay. AMEC acknowledges the Board's orders but submits that the presentation of the documents by the City on November 5, 2002 complied with the Board's order. Further, the intent behind the Board's order of November 13, 2001 to seek information as to the potential impact of the spill with the San Diego Bay already existed with the files of the Board or County DEH, therefore there has not existed any inability for the Board to access relevant information with respect to the spill of February 2001.

**LAW OFFICES
JOHN M. DILLARD**

40-Belt Street Pipeline:bsp
November 19, 2002

Page 2

AMEC'S PERFORMANCE PER ORDER NO R9-2002-0083 WAS ABATED

The Board in its affirmance of the above referenced order acknowledged in Section 8.1 that only "a preliminary conceptual model and a workplan to conduct soil and groundwater investigation were to be submitted." The Board acknowledged by letter dated April 26, 2002 that the City of San Diego would submit the required documentation thus negating any submittals from AMEC. AMEC responded to the Board's order of April 3, 2002 by letter dated May 3, 2002 which objected to certain findings as not reasonably related to the facts, but stating that inasmuch as the City was responding with the required development of the plans that there was no requirement for a duplicative response by AMEC. This position was confirmed by the Board's letter of May 17, 2002. Between May 17, 2002 and October 23, 2002 we received no communication from the Board that there had been a failure to submit the required plans. This failure on the part of the Board prejudiced AMEC's ability to step forward if the Board had determined that the City had failed to comply as indicated back in April 2002. The Board noted our failure to take an appeal from the perceived erroneous findings in the order of April 3, 2002, but as pointed out by AMEC this decision was based upon the agreement of the City to proceed with compliance without taking an appeal. Since the goal is to obtain the necessary information in order that the Board could evaluate the spill, nothing could be gained by an AMEC appeal and a City compliance with the 13267-investigation order.

**THE BOARD HAS A SUBMITTAL BY THE CITY ALONG WITH ALL OTHER
EXISTENT INFORMATION CONCERNING CONTAMINATION RELATIVE TO
THE WATER TABLE IN THE ADJACENT AREA WHICH SHOULD NEGATE THE
BASIS FOR PROCEEDING FORWARD WITH THE COMPLAINT AND HEARING**

A review of San Diego County Department of Environmental Health (DEH) files related to Voluntary Assistance Program (VAP), case # H03791-104 which involves Chevron Products Company Terminal #100-1252 and other files related to the terminal operation, including the upper and lower tank farm indicates a long history going back to 1985. At the time of the spill Chevron had two existing cases with DEH in the same general vicinity. One case involved underground tanks and the second was an above ground spill that was classified as a VAP case with the Board as lead. DEH authorized Chevron to open the Belt Street rupture as a VAP case. The Board was kept informed of all activities and Ms. Chan authorized DEH to take the lead with respect to the first spill.

Chevron also had a remediation project underway immediately north of the spill site. A report was prepared by TRC relative to the issue of the phase separated hydrocarbons (PSH) recovery systems that were active. Chevron had wanted to shut down the lower tank farm that is south and west of the spill site and remodel the upper tank farm that is north and east of the site. DEH monitored all activities from April through May 2001. The information from the above activities therein indicates that 1581 gallons were removed and that as of

**LAW OFFICES
JOHN M. DILLARD**

40-Belt Street Pipeline:bsp
November 19, 2002

Page 3

March 2001 the "bulk of the free product has been remediated through IRA. The lower tank farm was taken down and the report dated December 5, 2001 indicates that there was very little contamination and that the groundwater was clean. The Board signed off on the finding of no further action required. Thus with the monitoring wells existing in at least 3 quadrants, the only area not directly monitored is the NASSCO property.

The Board is in receipt of a workplan from Harding ESE as per the November 13th request. There were noted deficiencies in the plan, however, AMEC believes that these are best addressed or have been met by Chevron through the above listed activities. The Board is now in possession of the requested documents from the City of San Diego filed with the Board on November 5, 2002. As the Board is aware groundwater is found at 12 feet below grade. Due to the rise/fall of tides, this ground water, which is contaminated, may provide for further contamination of the soil unrelated to the Belt Street spill. There is no known test at present that can differentiate as between contaminants and when they were spilled. AMEC takes the position that there has been compliance with the November 13th directive by the current submittal from the City of San Diego and the Harding ESE plan submitted prior to January 25th. That plan, when incorporated with all the other activities outlined herein, should satisfy the Board's requirements, including the deficiencies noted in the subsequent letter.

WITNESSES FOR DECEMBER 11, 2002

1. WILLIAM GOLIGHTLY, AMEC UNIT MANAGER

Mr. Golightly will provide Geotech testimony consistent with the issues before the Board. It is expected that he will testify in the area of conceptual plans and workplans along with existing analysis of the site relative to the Board's function to evaluate the spill and its effect on the San Diego Bay waters.

2. JOHN M. DILLARD, OUTSIDE COUNSEL FOR AMEC

Mr. Dillard is expected to testify on the Board's orders, the legal implications with respect to the California Water Code and the California Code of Regulations. AMEC's compliance with Board directives and the implications of existing materials with respect to the continuance of the complaint and hearing thereon.

**3. FACTUAL DISPUTES WITH THE BOARD'S POSITION HAVE BEEN
OUTLINED ABOVE IN THE NARRATIVE SECTION**

4. NO WRITTEN TESTIMONY PRESENTLY EXIST

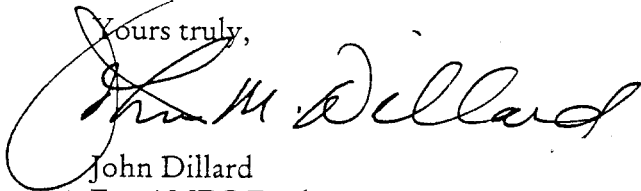
LAW OFFICES
JOHN M. DILLARD

40-Belt Street Pipeline:bsp
November 19, 2002

Page 4

5. ALL DOCUMENTS TO BE UTILIZED AT THE HEARING ARE CURRENTLY IN
THE BOARD'S FILE ON THIS MATTER

Yours truly,

A handwritten signature in black ink, appearing to read "John M. Dillard". The signature is fluid and cursive, with a large initial "J" and "M".

John Dillard
For AMEC Earth & Environmental

cc: John Richards, State Water Resources Control Board
Ted Bromfield, San Diego City Attorney/Served by FedEx 11/19/02
Peter L. Garchie, Esq., Tri-County Drilling, Inc./ Served by FedEx 11/19/02
M. Sigler, P.E., Chevron Products Company/ Served by FedEx 11/19/02
Barry S. Pulver, California Regional Water Quality Control Board/ Served by FedEx
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